

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**GUIDELINES FOR CLAIMS SUBMITTED FOR REIMBURSEMENT
UNDER THE CRIMINAL JUSTICE ACT**

The Sixth Amendment provides that in all criminal prosecutions the accused has the right to assistance of counsel for his defense. Where a defendant is financially unable to retain private counsel, the Court will appoint counsel to be paid from public funds pursuant to the Criminal Justice Act (18 U.S.C. § 3006A) (“CJA”) and the Criminal Justice Act Plan for the District of Massachusetts. These Guidelines have been adopted by the United States District Court for the District of Massachusetts in order to provide a comprehensive and uniform set of rules and policies governing the payment of fees and expenses of private counsel appointed under the CJA.

The United States District Court for the District of Massachusetts has a long and proud tradition of providing high-quality representation to indigent defendants. It is an honor and a privilege to be appointed as counsel by the Court. With that honor, however, comes certain responsibilities, including the responsibility to exercise prudence and restraint in the expenditure of public resources. The Court expects counsel to exercise reasonable professional judgment, both in deciding what work should be performed and whether the cost of that work should be properly borne by the taxpayers. The Court recognizes that the nature of the legal services performed by defense counsel depends in large part on actions taken by the prosecution and the Court itself, and that therefore counsel’s ability to control costs is at least somewhat limited. The Court also recognizes that no two cases are exactly alike, and that it is not possible to predict with certainty what legal services will prove to be necessary as a case develops. Nonetheless, CJA attorneys have an obligation to limit expenses to the extent reasonably possible while still providing effective representation of their clients.

It is likewise the responsibility of the Court to ensure that all services and expenses funded under the CJA are necessary and reasonable for effective representation. The Court has the authority and the obligation to disapprove claims for compensation that are unreasonable or otherwise excessive. However, that authority—which is exercised after a voucher has been submitted—is often difficult to administer effectively and may involve substantial adjustments by the reviewing judge that could have been avoided with the exercise of due care by counsel. There is no substitute for the exercise of careful and responsible professional judgment by the attorney.

I. Payment for Legal Services

A. ~~1.1~~ — General Policies

1. ~~1.11~~ — Systems Used. eVoucher may be the only system used to submit all vouchers for claims related to counsel compensation and expenses and expert services and expenses. All CJA 20 and 30 vouchers must be submitted within 45 days of final disposition. All CJA 21, 24, and 31 vouchers for experts must be submitted within 10 days of receipt by the attorney.
2. **Only Actual Work Performed.** —Counsel may only submit claims for actual legal services performed.—
3. ~~1.12~~ — **Only Reasonably Necessary Services.** —Counsel may only submit claims for legal services that were reasonably necessary to perform. —Whether a claim is ~~“reasonable”~~ requires that counsel make at least two types of professional judgment:— first, whether a particular task is reasonably necessary to perform, and second, whether the time that task took to accomplish was reasonable under the circumstances.
4. ~~1.13~~ — **Knowledge of Basics Presumed.**— Counsel are expected to know basic principles of federal criminal law, practice, and procedure, including the basic framework of statutes, case law, rules, and sentencing guidelines. —Counsel should not submit claims for time incurred learning such fundamental matters.
5. ~~1.14~~ — **Use of Other Attorneys.**— Counsel may use partners or associates when reasonably necessary to provide services efficiently and at the lowest possible cost. —Under these guidelines, the term ~~“associates”~~ may include both a salaried employee and an attorney who shares or uses office space with counsel and whose work on a CJA case is directly supervised by counsel. —The use of such counsel is subject to judicial approval under certain circumstances, as set forth in §§ ~~I.C.14.34~~ and ~~1.32I.C.2~~. —Counsel may not submit claims for time incurred by an attorney who is not a partner or associate of CJA counsel without prior judicial authorization, as set forth in § 1.33. —*See Guide to Judiciary Policy, § 230.53.10.*
6. ~~1.15~~ — **Use of Paralegals and Law Students.**— Counsel may use paralegals or law students when reasonably necessary to provide services efficiently and at the lowest possible cost. —The use of such individuals is subject to judicial approval under certain circumstances, as set forth in §§ ~~1.31, 1.32I.C.1, I.C.2,~~ and ~~4.7V.B.~~ Claims for compensation of such individuals are governed by §§ ~~5.4V.A~~ and ~~5.2V.C.~~ —*See Guide to Judiciary Policy, §§ ~~320.70.10, 320.70.50.~~*
7. ~~1.16~~ — **Use of Standardized Pleadings.**— The Court encourages the use of standardized templates for pleadings, particularly routine motions (such as motions to continue) that do not require legal research. Counsel should not, however, submit claims for preparing such pleadings unless new time was actually incurred.

8. **Review of Evidence.**— Counsel are expected to exercise reasonable professional judgment when performing a review of the evidence produced by the prosecution. Counsel are expected to be familiar with the resources available to CJA counsel to facilitate the efficient review of evidence in complex cases. —Among other things, counsel should consider mitigating expenses by utilizing paralegals or other lower-cost assistants (and, where appropriate, the client) to make the review as efficient as possible. ~~Counsel~~Judges are ~~expected~~encouraged to ~~work with~~authorize and approve vouchers for the ~~government not only~~costs of using paralegals or similar professionals to ~~ensure that it is complying with its~~facilitate the review of evidence. In cases involving large volumes of discovery ~~obligations, but also, the court should direct government counsel, as early as practicable, to attempt to have the government identify~~assist defense counsel by identifying key items of evidence in order to promote a timely and efficient review. —
9. — ~~1.18~~ — **Substitution of Counsel.**— As a general rule, it is very inefficient and expensive for the Court to replace appointed counsel in response to a request to withdraw from a representation. —The Court recognizes that the representation of indigent clients often presents great challenges, and that such clients may demand new counsel on unreasonable or even irrational grounds. —Nonetheless, the Court expects counsel to make every effort to maintain a working relationship with his or her clients, and to attempt reconciliation when it appears that the relationship has broken down. —Claims for compensation of former and successor counsel are governed in part by § ~~1.51~~1.E.1.

B. Tasks for Which Compensation May Not Be Claimed

1. **Services Not Reasonably Necessary.** In accordance with §§ ~~1.A.2–1.11 and 1.12~~1.A.3, counsel may not submit claims for time incurred performing services that were not actually performed or not reasonably necessary to perform. — ~~1.19~~ — **Writing Off Time.**—As with a private ~~client, the Court expects that~~clients, from time to time counsel ~~will~~may write off time charged to a matter, because it would be unreasonable under the circumstances to bill the time. For example, an attorney might have conducted unnecessary legal research under a mistaken assumption, or might have performed at a lower level of efficiency than normal. An attorney may advise the Court when this occurs, ~~in order to help demonstrate the reasonableness of his or her voucher.~~

~~1.2~~ — Tasks for Which Compensation May Not Be Claimed

~~1.21~~ — **Services Not Reasonably Necessary.** — In accordance with §§ ~~1.11 and 1.12~~, counsel may not submit claims for time incurred performing services that were not actually performed or not reasonably necessary to perform. —

2. — ~~1.22~~ — **Training and Education.**— In accordance with § ~~1.13~~1.A.4, ~~C~~ecounsel may not submit claims for time incurred by CJA counsel (or by a partner, associate, paralegal, or law student) to learn basic principles of federal criminal law, practice,

or procedure.

2.

3. **Clerical Work.** Counsel may not submit claims for attorney time incurred performing clerical work, even if actually performed by an attorney. Clerical work includes both work that is customarily performed by non-professional employees and work that can be capably performed by a non-attorney. Work performed by a paralegal may be claimed in accordance with §§ ~~1.15~~I.A.6 and 5.1V.A.
4. **Services of Personal Nature.** Counsel may not submit claims for time or expenses incurred performing tasks for a client of a personal nature, rather than legal representation. *See Guide to Judiciary Policy, § 230.66.20(b).* Counsel may, however, in appropriate circumstances submit claims for time or expenses incurred performing tasks relating to the conditions of confinement of a client.
5. **Retrieving Property.** Counsel may not submit claims for time incurred retrieving or holding property of the defendant, absent extraordinary circumstances. Counsel may, however, submit claims for time or expenses incurred performing tasks relating to the return of client property held by law enforcement, or in forfeiture matters when appointed to handle such matters.
6. **Record-Keeping and Voucher Preparation.** Counsel may not submit claims for time incurred in connection with record-keeping and preparation of CJA vouchers.

C. **Legal Services for Which Advance Judicial Approval Is Required**

1. **Participation of Others at Trial or Hearing.** ~~Counsel may not submit~~shall seek prior approval for claims for time incurred for a partner, associate, paralegal, or law student to participate in (or attend) trial or participate in (or attend) an in-court judicial proceeding, ~~without advance approval of the Court.~~
2. **Participation of Others at Client Meetings.** ~~Counsel may~~shall not submit claims for time incurred for a partner, associate, paralegal, or law student to participate in (or attend) a client meeting if the CJA counsel also attends the meeting, without advance approval of the Court. If circumstances prevent counsel from obtaining advance approval for such additional services that were reasonably necessary to the representation, counsel shall seek such approval from the Court as soon as possible.
3. **Services of Attorney Who Is Not a Partner or Associate.** Counsel may not submit claims for time incurred by an attorney who is not a partner or associate of CJA counsel, without advance approval of the Court. ~~See Guide to Judiciary Policy, § 230.53.10.~~
4. **Out-of-District Travel.** ~~Counsel may not submit~~shall seek prior approval for claims for travel outside of the district, other than travel to New Hampshire, Rhode Island, Maine, Connecticut, or Vermont, or to a pretrial detention facility, ~~without advance approval of the Court or~~ as otherwise provided in § ~~2.4~~II.D. ~~1.4~~

D. Allocation of Time Between Multiple Cases

1. **Overlapping Time.** Time spent in common on more than one case must be prorated among the cases on which the time was spent, and each case must be cross-referenced in the supporting materials to the vouchers. Time spent exclusively on any one case must properly be charged on the voucher for that case. Counsel may not submit a claim that exceeds the actual time expended. *See Guide to Judiciary Policy, § 230.50(d).*
2. **Overlapping Expenses.**— While time incurred in common on more than one CJA representation must be prorated among the individual cases, the entire amount of expenses applicable to more than one CJA representation must be billed to one representation. —The supporting materials to the voucher must cross-reference the other CJA representations, with an explanation of the circumstances. —*See Guide to Judiciary Policy, § 230.50(f); 500.*

E. Claims for Services When Counsel is Substituted

1. **Generally.** Where there has been a substitution of counsel, and where former counsel has cooperated in the transition and has reasonably and promptly provided the benefit of this or her work product to successor counsel, the reviewing judge should normally approve the voucher of the former counsel without waiting until the conclusion of the matter, absent good cause to do otherwise.

~~1.5 — Claims for Services When Counsel Is Substituted~~

~~—— **1.51 — Generally.** — Where there has been a substitution of counsel, and where former counsel has cooperated in the transition and has reasonably and promptly provided the benefit of his or her work product to successor counsel, the reviewing judge should normally approve the voucher of the former counsel without waiting until the conclusion of the matter, absent good cause to do otherwise. — *See Guide to Judiciary Policy, § 230.56.*~~

II. Payment for Travel

- A. **In-District Travel Generally.** Prior authorization is not required for reasonable in-district travel for meetings with a client, court appearances, or investigative purposes. Only the actual time and mileage spent traveling may be claimed. *See Guide to Judiciary Policy, § 230.60.*
- B. **Travel to Courthouse.** Counsel should consider appearing by telephone for relatively short court conferences, and should, when appropriate, seek leave of Court to do so. Travel time and mileage to and from a courthouse should be computed from the attorney's office unless the actual time and mileage is less.
- C. **Travel to Detention Facility.** —The Court encourages frequent contact with detained clients. Counsel should nonetheless take reasonable steps to reduce costs where practicable.— Among other things, counsel should consider combining client visits in a single trip to the facility; visiting with clients when they are detained in the lockup at the courthouse; and communicating with clients by telephone —and mail. Travel time and mileage to and from a detention facility should be computed

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from the ~~attorney's~~attorney's office unless the actual time and mileage is less.

D. Out-of-District Travel Generally. As set forth in § ~~1.34~~I.C.4, attorneys must obtain

E.D. advance authorization from the Court for compensable travel outside the district, other than travel within New England or to a pretrial detention facility. Counsel ~~will be issued a travel authorization form~~must consult and ~~referred to comply with~~ the Clerk's Travel Guidelines for CJA Attorneys and Experts.— The guidelines set forth the procedures for obtaining government travel rates and provide a summary of recurring allowable and non-allowable charges. See CJA Travel Guidelines.

F.E. Reasonableness of Out-of-District Travel Costs. The reasonableness of out-of-district travel costs will be determined in light of prevailing limitations for travel and subsistence expenses governing federal judiciary employees. See Guide to Judiciary Policy, § 230.63.40(c).

—**F. Time and Mileage Claims.** Claims for travel must include starting and ending—

G.F. destinations.— Voucher reviewers will use Google Maps, or a similar on-line service, to review travel time and mileage claims. —Absent any specific justification for travel time or mileage in excess of normal amounts, the voucher reviewer will reduce the ~~claimant's~~claimant's voucher without further notification.

G. Overnight Travel. Absent authorization of the Court, compensable time for travel

H.G. includes only those hours actually spent in or awaiting transit.— Accordingly, if a trip necessarily and reasonably requires overnight lodging, travel time to the destination should be calculated from the ~~attorney's~~attorney's office to arrival at the place of accommodation, and not beyond. —Travel time from the destination should be calculated based on a return directly to the ~~attorney's~~attorney's office. —See Guide to Judiciary Policy, § 230.60(b).

I.H. Meals. Meals are not reimbursable when overnight lodging is not required.

J.I. Evidence of Payment for In-District Travel. Any claim in excess of \$~~2550~~ for in-district travel, other than a claim for mileage, must be accompanied by a receipt. —See Guide to Judiciary Policy, § 230.63.40(c) and § 450.30.30(b).

K.J. Evidence of Payment for Out-of-District Travel. —Any claim for out-of-district travel, other than a claim for mileage, must be accompanied by an itemized receipt. —This includes all claims for parking, tolls, taxi fares, airfare, hotels, and meals. —See Guide to Judiciary Policy, § 230.63.40(c) and § 450.30.30(b).

—**L.K. Allocation of Overlapping Travel Expenses.** The entire amount of travel expenses applicable to more than one representation must be billed to one representation. The materials supporting the voucher on which the expenses are billed must cross-reference to the other case, with an explanation of the circumstances. See Guide to Judiciary Policy, § 230.50(e) and (f).

M.L. CJA Form 20. Out-of-pocket travel expenses must be claimed as an “other expense” on CJA Form 20.

III. Payment for Other Expenses

A. Expenses That May Be Claimed

- 1. Expenses Generally.** Counsel may submit claims for reasonably necessary out-of-pocket expenses incurred in connection with a representation. *See Guide to Judiciary Policy, § 230.63.10.*—
- 2. —Evidence of Payment.** Proof of payment is required for all itemized expenses in excess of \$50. This may include, for example, a receipt, a copy of a canceled check, or a credit card statement. An invoice alone is not sufficient.
- 3. Copying.** Charges for in-house copy work is limited to \$0.10 per page or actual cost, whichever is less. The actual number of pages for any such copy work must be set forth on the expense worksheet.
- 4. Postage.** Postage reimbursement is limited to the actual cost of case-related regular U.S. postage.
- 5. Expedited Delivery Service.** Use of overnight or two-day delivery will be reimbursed only if reasonably necessary under the circumstances. Any such claim must be supported by an explanation of the circumstances. Expedited delivery cost for routine correspondence will not be reimbursed. Counsel are encouraged to use courier services instead of attorney time to deliver documents to the court.
- 6. Faxes.** Charges for a facsimile transmission is limited to the actual cost of any out-of-pocket charge associated with the transmission of an outgoing document. —No reimbursement is allowed for receipt of a facsimile.—

B. Expenses That May Not Be Claimed

- 1. PACER Charges.** Because PACER is available free of charge to panel attorneys, counsel may not submit claims for reimbursement for PACER charges.
- 2. General Office Overhead.** Counsel may not submit claims for general office overhead (for example, rent, telephone service, and secretarial expenses). *See Guide to Judiciary Policy, § 230.66.10.*
- 3. Items of Personal Nature.** Counsel may not submit claims for purchasing items of a personal nature (for example, clothing, haircuts, or food) on behalf of a client. *See Guide to Judiciary Policy, § 230.66.20.*
- 4. Costs and Fees of Witnesses.** Counsel may not submit claims for fees, costs, or expenses of subpoenaed witnesses. The payment of such items is governed by Fed. R. Civ. P. 17 and 28 U.S.C. § 1825. *See Guide to Judiciary Policy, § 230.66.50.*

IV. Payment for Expert and Other Services

- A. Advance Authorization Required Over ~~\$800900~~.**— Any expenditure over ~~\$900800~~ for expert or other outside services must be authorized in advance by the Court. —For expert services, this

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maximum applies to each representation, not to each service provider or type of service. ~~—See Guide to Judiciary Policy, § 310.20.30.~~

- B. Disclosure of Total Anticipated Cost.** Any request for authorization of services made to the Court must disclose the entire anticipated cost including hourly rate, notwithstanding the \$9800 exemption. ~~—Thus, for example, if an expert's expert's fees are expected to be \$2,000, the request must clearly state that the anticipated cost is \$2,000, not \$1,1200.~~
- C. Requests for *Nunc Pro Tunc* Authorization.**— If the cost of services for a case is anticipated to surpass the \$9800 limit, an application to exceed that amount must be made in advance. ~~—Any request seeking *nunc pro tunc* authorization for services rendered will not be approved absent a finding by the Court, upon good cause shown, that timely procurement of such services could not reasonably await prior authorization.~~
- D. Supplemental Requests.** Counsel should make every reasonable effort to obtain a realistic up-front estimate from the expert for all fees likely to be required in connection with the engagement.
- E. Engaging Expert Services.** Counsel shall deliver an engagement letter to any approved expert that clearly sets forth the approved amount and the requirement that any additional amounts must be approved by the Court. ~~—In some cases, changed circumstances may require additional expenses that were not reasonably foreseeable at the outset. ~~—Nonetheless, the practice of seeking supplemental requests for expert fees, after a lower initial amount has been approved, is generally discouraged.~~—In those situations, counsel should take steps to ensure that no additional work is performed by the expert without prior approval by the Court for additional funds.~~
- F. 4.5—No Retainers.** ~~—The Court cannot pay a retainer for an expert.~~— If a fee or retainer money is required up front by an expert or other service provider, counsel must pay and then submit a voucher for reimbursement after services have been provided. ~~—Requests may be made for reimbursement prior to the conclusion of the case if the district court ~~finds that~~ the request is reasonable.~~
- G. Presumptive Rates.** ~~—Approval for all expert services must be obtained in advance. The presumptive rates for expert services shall be the rates listed on the fee schedule attached as Exhibit A to these Guidelines. Factors relevant to determining the rate within a range include, but are not limited to, expert years and depth of experience, the availability, or lack of availability, of this or similar service providers, the complexity of the case, and/or any time limitations on the case that may affect how quickly the service needs to be completed. If a particular type of service is not listed on the fee schedule, the Court will consider and counsel shall address (1) the presumptive rate for such service from other federal courts and the Committee for Public Counsel Service; (2) the rate, if available, paid for such service by the Federal Public Defender or the United States Attorney, and (3) the foregoing considerations.~~
- H. Mental Health Experts.** Counsel should ~~may~~ seek to obtain the services of a mental health professional when counsel has a basis to believe that ~~there may be a material effect these services may be relevant~~ there may be material effect to ~~on~~ matters of competency, criminal responsibility, sentencing, or conditions of confinement. Counsel should not expect the Court to approve such requests for authorization without providing

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~~case specific reasons for doing so. — But as routine matter, counsel should not seek to obtain mental health services.~~

~~Sentencing Experts. Counsel should not seek to obtain the services of a sentencing guidelines expert except in extraordinary cases with highly unusual sentencing issues.~~

- ~~I. CJA Form 21. The cost of expert services must be based on the market rate claimed on CJA Form 21 and submitted by the attorney within 10 days of receipt of an invoice from the expert.~~

V. Payment for Paralegals, Law Students, and Interns

~~Rate of Compensation. When the use of paralegals or law students is reasonably **4.7**~~

- ~~A. required, the time incurred by such individuals may be claimed at a rate that is not higher than the rate customarily charged by the law firm for their services, not to exceed the presumptive rates. See Guide to Judiciary Policy, § 320.70.50(a) and Exhibit A of these Guidelines.~~

- ~~A. **Paralegals and Law Students.** Paralegals and law students are considered “outside services” subject to the \$800 limit, even when the paralegal or law student is employed by CJA counsel. See Guide to Judiciary Policy, § 230.70.10. —~~

~~B.~~

~~**4.8 — Psychiatric or Psychological Experts.** Counsel should not seek to obtain the services of a psychiatrist or psychologist as a routine matter, but only where there is a genuine issue of serious mental impairment that may have a material effect on matters of criminal responsibility, sentencing, or conditions of confinement. —~~

~~**4.9 — Sentencing Experts.** Counsel should not seek to obtain the services of a sentencing expert except in extraordinary cases with highly unusual sentencing issues.~~

~~**4.10 — CJA Form 21.** The cost of expert services must be claimed on CJA Form 21. —~~

5. Payment for Paralegals, Law Students, and Interns

~~**5.1 — Rate of Compensation.** When the use of paralegals or law students is reasonably required, the time incurred by such individuals may be claimed at a rate that is not higher than the rate customarily charged by the law firm for their services, not to exceed \$50. — See Guide to Judiciary Policy, § 320.70.50(a). —~~

~~**Unpaid Law Students and Interns.** — Counsel may not submit claims for time —~~

- ~~C. incurred by law students or interns who are otherwise performing services without compensation.~~

~~**D. CJA Form 21.** CJA Form 21. The use of paralegal and law-student services must be claimed on a CJA Form 21.~~

~~E. —~~

~~**D. 6.** — CJA Form 21 and submitted within 10 days of receipt of an invoice by the attorney.~~

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V. VI. Payment for Computer Systems/Support

~~—~~ **Advance Authorization Required.** ~~—~~ Before seeking court approval for any computer—
A. ~~—~~ hardware or software with a cost exceeding \$9800, or for the utilization of computer systems or ~~automation~~ automated litigation support personnel or experts with an expected combined cost exceeding \$10,000, counsel must consult with the ~~Office of~~ Defender Services (~~ODS~~ Office (DSO) (510-367-3500) for guidance and inform the court in writing of the ~~ODS's~~ DSO's advice and recommendation concerning ~~counsel's~~ counsel's proposed expenditure. ~~—See Guide to Judiciary Policy, § 320.70.40(a)(2).~~—

~~—~~ **Return of Equipment.** ~~—~~ Upon completion of the case, any computer hardware or—
B. ~~—~~ software acquired with CJA funds remains the property of the United States and must be returned in good condition to a federal defender organization or office designated by ODS. ~~—See Guide to Judiciary Policy, § 320.70.40(b)(5).~~

7. VII. Court Reporters and Transcripts

A. CJA Form 24. Claims for transcripts by court reporters must be submitted on a CJA Form 24. Within 10 days of receipt of the CJA Form 24, the attorney must act upon the voucher for payment.

VIII. Record-Keeping—

~~—~~ **Time Records Generally.** ~~—~~ Counsel must maintain contemporaneous time and—
~~A.~~ ~~—~~ attendance records daily for all work performed, including work performed by partners, associates, paralegals, and law students. ~~—See Guide to Judiciary Policy, § 230.76.~~

~~A.~~

~~B.~~

~~—~~ **Time Increments.** ~~—~~ All time records must be kept in increments of one-tenth of an—
~~C.B.~~ ~~—~~ hour (that is, six minutes), ~~until implementation of the electronic vouchering program. Once that program is implemented, all time records must be kept according to the actual number of minutes spent. —~~.

~~—~~ **Description of Services Provided.** ~~—~~ The description of the services provided must be ~~—~~
~~D.C.~~ ~~—~~ sufficiently detailed so that the reviewing judge can understand the nature of the service performed and evaluate the reasonableness of the time claimed. ~~—~~ Broad descriptions, such as ~~““““review file””””~~ or ~~““““review evidence,””””~~ should not be used. ~~—~~

~~E.D.~~ ~~—~~ **Claims for Legal Research.** ~~—~~ Claims for legal research must state the specific issue researched, provided, however, that the description should not reveal otherwise-privileged information. ~~—~~

~~F.E.~~ ~~—~~ **Claims for Document Review.** ~~—~~ Claims for document review must state the specific nature of material reviewed and the volume of the materials reviewed. ~~—~~

~~G.F.~~ ~~—~~ **Claims for Conferences with Family Members.** Claims for conferences with family representatives are encouraged but should be limited to matters necessary to provide an effective

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defense, ~~and must describe the subject of the communication.~~

H.G. Differentiation of Cases. –All time records must allow determination of all time worked on all CJA cases in a single day.

H.H. Expense Records.– Counsel must maintain complete and accurate records of all expenses for which reimbursement is claimed. –*See Guide to Judiciary Policy, § 230.76.*

J.I. Audit and Maintenance of Records. –~~Records~~Billing records are subject to audit and must be retained for three years after approval of a final voucher for ~~appointment.~~payment. *See Guide to Judiciary Policy, §§ 230.76, 320.90.*

IX. Interim Billing

A. Generally. Individual judges may by written order require or permit counsel to submit interim vouchers under such circumstances and upon such terms as they deem reasonable. –*See Guide to Judiciary Policy, § 230.73.10.*

B. Terms. When interim billing is required or permitted, counsel ~~must should~~must submit interim vouchers ~~no less than on a~~ quarterly basis, unless the order of the individual judge states otherwise.

C. Exceeding Maximum Amounts. Once compensation exceeds the maximum statutory limit, an excess memorandum is required. It must be addressed to the presiding judge and attached to each interim voucher supporting and justifying the claim. The memorandum is not to be docketed in the case file. The memorandum shall include a description of the work completed in the instant voucher.

C.D. Referral to Magistrate Judge.– In some circumstances, such as where the case has involved extensive discovery and pretrial practice, the magistrate judge may be in a better position to understand and evaluate an interim voucher than the district judge. –Under such circumstances, it may be appropriate for the district judge to refer an interim voucher to the assigned magistrate judge for a report and recommendation.—

X. Budgeting

A. Budgeting Generally.– Any case budget required under these guidelines should be approved only after consultation with counsel and must provide sufficient resources to provide effective representation of the client under the circumstances. –A district judge may refer a proposed budget to a magistrate judge for a report and recommendation. –Court-approved budgets may be modified for good cause shown to reflect changed circumstances.— Vouchers seeking payments for claims in excess of a court-approved budget will be approved only for good cause shown. –*See Guide to Judiciary Policy, § 230.26.20.*

B. Discretionary Budgeting.– Individual judges may by written order require case budgeting under such circumstances and upon such terms as they deem reasonable.—

C. Budgeting in Large Cases. –Case budgets are required for any representation ~~that~~where it is **9.3**

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~~reasonably likely, at the time counsel is appointed, that attorney hours will exceed 300 hours or total expenditures are expected to exceed 300 hours or \$30,000 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand, for appointed counsel and services other than counsel for an individual CJA defendant. Counsel shall contact the First Circuit Case Budgeting Attorney to discuss whether a case may be appropriate for budgeting, the procedures for submitting a case budget, and for assistance in total claims-creating a case budget. Proposed ~~case budgets~~ case budgets should ordinarily be provided submitted no later than 60 days after appointment of counsel. The Court shall either approve the budget as proposed or, after consultation with counsel, approve it with such adjustments as may be appropriate. ~~Reviewing judges should give due weight to the recommendations of the Case Budgeting Attorney in reviewing vouchers and requests for expert services, and must articulate their reasons for departing from the case budgeting attorney's recommendations.~~ ~~—See Guide to Judiciary Policy, § 230.26.10.—~~~~

XI. Change in Client's Client's Ability to Pay—Pay

- A. Generally.**— If, at any time after appointment, counsel obtains information that a client is financially able to afford private counsel, in whole or in part, counsel must advise the Court of that fact unless the source of the information is a privileged communication or if its disclosure would otherwise violate the ~~attorney's~~ attorney's ethical duty.— *See Guide to Judiciary Policy, § 210.10.30.*

XII. Review of ClaimsReview of ClaimsIf

~~**11.1—Reduction or Denial of Claim.**—Violations of these Guidelines, or the submission of unreasonable or excessive claims, may result in reduction or denial of claims.—Any such adjustments shall be made in accordance with these guidelines.~~

- A. 11.2—Reduction of Claim.** The CJA provides that the reviewing judge must approve the compensation and reimbursement to be paid to appointed counsel. If the Court determines that a claim should be reduced for reasons other than mathematical or technical errors, the following process will apply:

1. Appointed counsel should be provided prior notice of the proposed reduction with a brief statement of the reason(s) for it, and an opportunity to address the matter.
—
2. If the Court reduces the voucher after the foregoing process, Counsel may, within 14 days, request that the CJA Voucher Review Committee (“Committee”) review the voucher by emailing the Clerk’s Office Financial Manager with a copy to the CJA Board Chair. The Financial Manager will provide the voucher, the Court’s statement(s) reducing the voucher and the attorney’s response to the CJA Voucher Review Committee.
3. The CJA Voucher Review Committee shall file a recommendation with the Financial Manager along with a copy to the attorney and CJA Board Chairattorney.
4. The court will review the CJA Voucher Review Committee’s recommendations and issue a final decision on the claim.;

A.B. **A**

~~adjustments by Clerk's Office.~~ –The Clerk's Office may make technical or mathematic adjustments or reductions to claims to conform to the policies of the District Court and the Judiciary and to correct clerical errors. –*See Guide to Judiciary Policy, § 230.36.*
Notice need not be given to appointed counsel where the reduction is based on mathematical or technical errors.

~~11.3—Adjustments by Judge.~~ The reviewing judge may adjust or reduce claims that are unreasonable or excessive, after notice to counsel submitting the claim and an opportunity to be heard, either in person, in writing, or by telephone conference, as the judge may direct. –*See Guide to Judiciary Policy, § 230.36.*

C. 11.4—Presumptive 15% Discount.No Hearing Required and Informal Communications.

Nothing contained in these guidelines should be construed as requiring a hearing or as discouraging the Court from communicating informally with counsel about questions or concerns in person, telephonically, or electronically, as deemed appropriate or necessary.

B.D. Accurate and Descriptive Records Requirement.

Where a time entry appears to reflect work that was actually performed, but is insufficiently detailed (for example, a claim for “legal research,” “prepare for court,” or “draft pleading”) or appears to reflect inadequate record-keeping practices (for example, a series of time entries in whole-hour increments), the Court may apply a presumptive 15% discount to ~~that~~ entry. The presumptive discount may be rebutted by the attorney by a showing that the entry was in fact accurate and proper. Any reduction shall follow the same procedure as described in XII. A. Reduction of Claim in this section.

D.E. Annual Review. The Court will conduct an annual review of attorneys who have claimed compensation of more than 1,000 hours in the preceding fiscal year. –*See Guide to Judiciary Policy, § 230.80.* The Court will also conduct periodic reviews to ascertain whether any panel attorneys have unusually high billing practices compared to other panel attorneys in comparable cases.

E.F. Audits. An attorney may be required to perform a self-audit or submit to an independent audit for the Court.

XIII. Violation of Guidelines

—**Generally.** –Recurring or serious violations of these Guidelines may result, among—

A. other things, in suspension or removal from referral to the Board for review and recommendation in accordance with the procedures set forth in the Local CJA Panel Plan.

13XIV. Compliance with Other Requirements

- A. ~~13.1~~ **Generally.**— In addition to these Guidelines, each CJA attorney must also comply with the *Guidelines for Administering the CJA and Related Statutes* and any applicable local rules and court orders.

**Guidelines For CJA Reimbursement
2019**

Exhibit A – Presumptive ~~Expert~~ Hourly Rates Approved by Court

| | |
|----------------------------------|----------------------------------|
| <u>Other Counsel Associates*</u> | <u>80% of statutory CJA rate</u> |
| Forensic Computer/Cellphone | \$100-200 |
| Investigator | \$60-90 |
| <u>Law Students</u> | <u>\$25</u> |
| Paralegal | \$35-50 |
| Psychiatrist | \$200-300 |
| Psychologist | \$150-250 |

*Other Counsel Associates that are also on the CJA Panel may bill at the full CJA rate.

